

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

JUSTIN JAMES HINZO,

Plaintiff,

v.

CIV 10-0506 JB/CG

STATE OF NEW MEXICO
DEPARTMENT OF CORRECTIONS, et al.,

Defendants.

ORDER DENYING MOTION TO WITHDRAW

This matter comes before the Court on attorney Edward Shepherd's *Motion to Withdraw as Counsel*. (Doc. 39). Mr. Shepherd seeks to withdraw as counsel for the New Mexico Department of Corrections ('DOC'), a defendant in this action. Mr. Shepherd states that he has been representing the DOC upon the request of Admiral Insurance Company - the insurance company for Wexford Medical Services - pursuant to a tender of defense. (*Id.* at 1). Mr. Shepherd states that Admiral Insurance has withdrawn its tender of defense and that the DOC has not responded to requests that it enter into a fee agreement with Mr. Shepherd's firm so that Mr. Shepherd can continue his representation. (*Id.* at 1; Doc. 39, Ex. A). The Court, having considered the Motion, the relevant law, and otherwise being fully advised in the premises, **FINDS** the Motion not to be well-taken because it does not comply with the Local Rules of Civil Procedure for the District of New Mexico.

Mr. Shepherd states that the DOC objects to his motion to withdraw. (Doc. 39 at 1).

Pursuant to D.N.M.L.R. 83.8(b), if a motion to withdraw is contested, “[t]he attorney must file and serve on all parties, including the client, a motion to withdraw. The attorney must give notice in the motion that objections must be served and filed within fourteen (14) days from date of service of the motion and that failure to object constitutes consent to grant the motion.” Mr. Shepherd’s motion fails to state whether a copy of the motion was served on the DOC, and it does not inform the parties of their right to object within fourteen days of the motion.

IT IS THEREFORE ORDERED that attorney Edward Shepherd’s *Motion to Withdraw as Counsel*, (Doc. 39), is **DENIED**.

A handwritten signature in black ink, appearing to read "Carmen E. Garza", with a long horizontal line extending to the right.

THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE